

**OPEGA Report on Economic Development Programs
Recommendations Not Fully Addressed as of April 2015**

Finding 1: Existing Programs May Be Ineffective or Inefficient

- A. Legislature should consider subjecting the following programs included in this review to more in-depth evaluations of effectiveness, efficiency and economic use of resources:
- All 15 tax incentive programs
 - Revenue Obligations and Securities Program
 - Economic Loan Recovery Program
 - Governor's Training Initiative
 - Commercial Loan Insurance Program
 - Milk Commission
 - Regional Economic Development Revolving Program
 - Maine Manufacturing Extension Partnership
 - Agricultural Marketing Loan Fund
 - Agricultural Water Management and Source Development Program
 - Maine Apprenticeship
 - Potato Marketing Improvement Fund Program
 - Farms for the Future Program

Current Status of Actions on This Recommendation

Comprehensive Economic Development Evaluations

Statute (5 MRSA §13056-A) currently requires DECD to contract for an independent biennial evaluation of "state investments in economic development". The evaluation report must establish outcome measures, including measures that assess the overall economic performance of identified programs, and include recommendations to the Legislature on existing and proposed state-supported economic development programs. Programs that are identified for evaluation include, but are not limited to: Maine Employment Tax Increment Financing Program; Loring Development Authority; visual media production certification program; promotion and marketing of state products; the Maine International Trade Center; municipal tax increment financing; and the pine tree development zone.

Statute (5 MRSA §13056-C) also establishes payments to a fund to support this evaluation. Payments are made by programs that receive \$250,000 or more in economic development appropriations in any fiscal year or those entities that receive funds from a general obligation bond issue of \$250,000 and are paid at an amount not to exceed .8% of General Fund appropriations received by or general obligations bonds issues to said entity.

There have been two Comprehensive Economic Development Evaluations conducted pursuant to this statutory requirement. The first was conducted in 2008 with report issued in March 2009. The second was conducted in 2013 and 2014 with two reports issued in January and June 2014.

There are currently several issues impeding the effectiveness and efficiency of these evaluations that present challenges, and raise questions about the cost-benefit, in proceeding with the next scheduled biennial evaluation. These issues are:

- Statute currently requires an biennial evaluation of Research and Development Programs (R&D Evaluation) that is separate from the biennial Comprehensive Economic Development Evaluation (CEDE). The R&D evaluation pre-dates the CEDE. The purpose of the R&D programs, however, is to support economic development. DECD and the most recent independent evaluator for both evaluations agree that combining all programs into one evaluation, perhaps

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including a sub-analysis of R&D programs, would provide for a more effective and efficient evaluation.

- The funding mechanism for the CEDE is not producing enough funds to cover the cost of the evaluation. The R&D evaluation has a similar funding mechanism that appears to be producing sufficient funds because there are more programs against which a funding assessment can actually be made. According to DECD, there is currently only \$12,400 of funding from that mechanism available for the next CEDE that is due to be completed and reported on in 2016. At this time, DECD is forgoing the planning for that evaluation due to lack of funding.
- Currently, there does not appear to be any effort underway in the Executive or Legislative Branch to consider the recommendations in the most recent CEDE report and to take action as deemed appropriate. There is also no statutory requirement or structure established for doing so. The independent evaluator made 20 recommendations that can be grouped as follows: Most Critical Recommended Changes (3 recommendations), Recommended Changes to Specific Programs (11 recommendations) and Additional Suggested Changes (6 recommendations). The 3 recommendations categorized as Most Critical relate to issues that remain unaddressed from OPEGA's 2006 report, and are repeats of recommendations in the 2009 CEDE report. These recommendations address issues which hamper the State's ability to adequately coordinate, oversee and evaluate these programs. DECD indicated that the Department is not necessarily supportive of all the consultant's recommendations and/or that there may be additional relevant information the consultant was not aware of when preparing the recommendations.
- The access to, and availability of, data needed to perform an effective evaluation has been a barrier to the effectiveness of the two CEDE's completed to date. This issue is the subject of recommendations in OPEGA's (see Findings 5 and 6) and in both the 2009 and 2014 CEDE reports. The State has not yet addressed these issues.

Legislative Review of Tax Expenditure Programs

An OPEGA-developed proposal for implementing an on-going legislative review process for tax expenditures is currently being considered by the Taxation Committee in conjunction with LD 941, An Act to Improve Tax Expenditure Transparency and Accountability. In the proposal, OPEGA notes that a number of the tax expenditures are programs currently subject to the statutorily required evaluations of research and development programs and economic development programs that DECD contracts for. By OPEGA's count, there are 20 tax expenditures captured in the 59 programs that part of the most recent R&D and CEDE evaluations. Should the Legislature implement the proposed tax expenditure review process, consideration should be given to whether there should then be changes to DECD's evaluation requirements.

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- B. Legislature should consider reviewing existing portfolio of programs to identify opportunities for reducing the number of programs and/or administrative costs associated with them.

Current Status of Actions on This Recommendation

In 2008, DECD contracted the Maine Development Foundation to develop a portfolio, or inventory, of economic development programs. DECD also contracted with MDF to update that inventory in to have available for the independent evaluator for the 2013 CEDE. The updated inventory prepared by MDF was submitted June 2013 and is the State's most current inventory. While the inventory has been used to establish the scope of the evaluations as far as what programs are to be included, OPEGA does not know at this time whether this inventory was every utilized or reviewed in regard to the intent of this recommendation.

- C. Legislature should consider establishing a process for assuring that future economic development proposals are compared to existing programs to determine if the purpose of the new proposal can be effectively met by modifying or replacing an existing program.

Current Status of Actions on This Recommendation

Sec. 11 of PL 2007 Chapter 434 (LD 1163) provided that the joint standing committee [BRED, at the time] "shall also consider the establishment of a new legislative process for review of all proposed legislation that involves economic development programs that would provide the joint standing committee and the department [DECD] with a clearly defined review process for these proposals." This process does not appear to have been developed or implemented.

Finding 2: Insufficient Definition of Economic Development

- A. Legislature should consider replacing the current definition of "economic development incentive" in 5 MRSA §13070-J.1.D with the criteria proposed by DECD and amended as necessary. The Legislature should also consider incorporating this definition into 5 MRSA §§13051-13060 to further define the roles and responsibilities of DECD.

Current Status of Actions on This Recommendation

Legislation was passed that revised the definition of "economic development incentive" as proposed by DECD. That definition is in 5 MRSA §13070-J. It does not appear that second portion of this recommendation has been met.

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Finding 3: Lack of Statewide Coordination and Oversight

- A. Commissioner of DECD will prepare a proposal for expanding the role of the Department to include coordination of the State's portfolio of economic development programs as determined by criteria set by the Legislature (see Finding 2). Proposal will include an assessment of the benefits and resources necessary to fulfill this role. The Commissioner will submit this written proposal to the BRED Committee by December 31, 2007.
- B. The BRED Committee should consider seeking similar proposals from the Maine Development Foundation and other existing non-State organizations with the capabilities necessary to carry out the responsibilities of a portfolio coordinator. BRED could then assess these proposals in conjunction with the one from DECD and make recommendations to the entire Legislature on whether and how to proceed with designating a specific entity as portfolio coordinator.

Current Status of Actions on These Recommendations

The Commissioner of DECD submitted a proposal to BRED and BRED also solicited and received a proposal from Maine Development Foundation. BRED determined that the potential duties described in OPEGA's report for the portfolio-coordinator role were already within the statutory authority of DECD and that such responsibility should fall to the Department. BRED intended to monitor how DECD was filling these roles. However, than updating the inventory of programs in 2013, DECD has not assumed the expected duties nor has the enabling statutory language for the Department been modified to explicitly state these expectations as part of DECD's responsibilities. According to DECD, current resources in the Department would be insufficient to perform these roles.

Finding 4: Inadequate Mechanisms to Assure Program Controls

- A. Effective with the first regular session of the 123rd Legislature, DECD will begin reviewing all new economic development proposals, put forth by DECD, as required by 5 MRSA §13070-0 and will submit written reports of its assessments to the appropriate joint standing committees.
- B. Legislature should create a process to ensure that DECD is made aware of all new economic development programs proposed in legislation. Once this is established DECD will also begin reviewing new proposals from other sources as required by 5 MRSA §13070-0 and will submit written reports of its assessments to the appropriate joint standing committees.

Current Status of Actions on These Recommendations

Sec. 11 of PL 2007 Chapter 434 (LD 1163) provided that the joint standing committee [BRED, at the time] shall consider establishment of a new legislative process for review of all proposed legislation that involves economic development programs. However, a process was never enacted and consequently, to OPEGA's knowledge, DECD has not been reviewing proposals for new economic development proposals that come from sources other than the Department itself. OPEGA is uncertain whether DECD has been reviewing and reporting on its own proposals, or whether it has even put forth new proposals since 2007.

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- C. Pursuant to other statutory requirements, DECD will be providing an annual report on Pine Tree Development Zones to the Legislature by January 1, 2008. DECD will include in this report an assessment of this program against the criteria specified in 5 MRSA §13070-O.

Current Status of Actions on This Recommendation

PTDZ Reports are supposed to be submitted biennially. OPEGA has not yet reviewed any of these reports to determine whether DECD has reported on assessment of this program against the criteria in 5 MRSA §13070-O.

- D. Legislature should consider amending existing statutes in several areas to strengthen and clarify mandates for adequate program controls in economic development programs. See Full Report for details.

Current Status of Actions on This Recommendation

PL 2007 Chapter 434 (LD 1163) added some provisions into 5 MRSA §13070-O, such as needing to have a clearly defined purpose and incentives or penalties related to meeting program objectives, but OPEGA needs to review further to determine whether these changes are to the extent necessary to establish foundation for sufficient program controls.

- E. Legislature should consider directing all administering agencies with programs meeting expanded definition of economic development to report to the joint standing committee of jurisdiction on whether each program adequately incorporates the criteria required in 5 MRSA §13070-O.

Current Status of Actions on This Recommendation

There does not appear to have been any action taken on this recommendation.

Finding 5: Data Collected Does Not Provide Clear Picture of Results

- A. In its response to Finding 3, DECD will also make recommendations regarding what additional data collection responsibilities it would need to take on to properly fulfill the role, and meet the related responsibilities, of portfolio coordinator.

Current Status of Actions on This Recommendation

It is OPEGA's understanding that both DECD and MDF submitted proposals for the "portfolio coordinator" but we have not obtained the written proposals and individuals involved with DECD's proposals are no longer with the State. It is uncertain at this time what was in those proposals with regard to data collection but neither has been implemented and DECD is not currently fulfilling any role the collector of program and performance data for the portfolio of economic development programs. Confidentiality issues related to data held by Maine Revenue Services and other agencies present a current barrier to DECD collecting, maintaining and reporting on all data that may be desirable.

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- B. The Legislature should consider giving data collectors the authority needed to compel businesses to provide data required for measuring performance of economic development programs. Meaningful incentives and/or penalties should be established and should be included in enacting statutes or related rules.

Current Status of Actions on This Recommendation

In regard to authority, 5 MRSA §13056-B requires that recipients of state economic development funding shall collect, maintain and provide data as requested by DECD to assist in the CEDE. Further, 5 MRSA §13070-O, sub-§1.I notes that proposals for new economic development programs shall include provisions (to be included in enabling legislation) that require the program to “in addition to standard data, report performance data specific to its goals and objectives annually to the entity that is assigned to coordinate the State’s portfolio of economic development programs.” However, statute does not seem to provide any incentives or penalties associated with complying with the data requirements. For both Comprehensive Economic Development Evaluations that have been conducted, evaluators surveyed businesses receiving program benefits to try to collect the data necessary for effective evaluation. In both instances, survey response rates were low. Many businesses did not provide the data requested as required by statute.

Finding 6: Inadequate Reporting for Accountability

Management Actions

- A. If possible, the CEDE will be designed to provide adequate reporting on individual economic development programs in addition to reporting on the results of the State’s economic development strategy. If it is not possible to include sufficient reporting to allow legislators to understand and make decisions on individual programs, then DECD will make suggestions to the BRED Committee on how to achieve standardized reporting on all economic development programs that will provide adequate transparency and accountability.

Current Status of Actions on This Recommendation

The second CEDE conducted did attempt to evaluate individual programs and the reports issued did include recommendations for modification to specific programs. However, the ability to evaluate the individual programs was quite limited by the inability to access existing State data associated with the programs (due to confidentiality issues) and the lack of self-reporting by businesses through the evaluation survey. OPEGA’s observation is that the CEDE is not still not providing the performance information on individual programs that will allow legislators to understand and make decisions on specific programs. DECD has also not initiated any efforts, including making suggestions to LCRED, toward achieving standardized reporting to provide transparency and accountability.

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- B. Legislature should consider modifying 5 MRSA §13058-5 to specify that the Commissioner reports be in writing.
- C. Effective 2007, the Commissioner of DECD will begin satisfying the reporting requirement in 5 MRSA §13058-5 by preparing and submitting a formal written report to the Governor and the full Legislature. DECD expects that this reporting requirement will be met in conjunction with the comprehensive economic development evaluation.

Current Status of Actions on These Recommendations

5 MRSA §13058-5 still does not specify in what form the Commissioner's report is to be made. Also, although the CEDE reports prepared by the independent evaluator have been submitted and presented to the Legislature, OPEGA has been unable to obtain any written report from the Commissioner to the Governor and Legislature that address all the points required by statute. The CEDE reports also do not appear to cover all the points that the Commissioner is required to report on under 5 MRSA §13058-5.

- D. By July 1, 2007, DECD will establish a means to make legislators and the public aware of the reports submitted in accordance with 5 MRSA §13070-J.4 and 5 MRSA §13058-5, or that are otherwise submitted to DECD, and to facilitate access to them. In addition, as part of its proposal in response to Finding 3, DECD will make recommendations on how performance and cost information on all economic development programs can be made readily accessible to interested parties.

Current Status of Actions on This Recommendation

There does not appear to have been any action taken on this recommendation.